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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,481	06/04/2001	Douglas J. Kerkvliet	C535.12-0002	6544
164	7590	12/09/2003	EXAMINER	
KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/873,481	KERKVLIET, DOUGLAS J.
	Examiner	Art Unit
	Jerry Redman	3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 36-61 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 36-61 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49, 52-54, 57, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Keating. Andresen discloses an overhead door assembly comprising a door panel (10) having a bottom member (16), first and second vertical side members (18 and 20), and a top member (14), hinging support members (66, 70, 72, and 74) connected to a top portion of the door panel (10). Andresen fails to disclose a truss externally mounted on an outside face of a bottom horizontal end of the door panel (10). As shown in Figure 2, Keating discloses an external truss (25) externally mounted on an outside face of a bottom horizontal end of the door panel (2) (column 2, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the door assembly of Andresen with extra support along a bottom edge as taught by Keating since the bottom edge of a door panel receives the greatest wear and tear on an overhead door system and increases the rigidity of the door panel.

Claims 50, 51, 55, 56, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Keating as applied to claim 49 above, and further in view of Wentzel. All of the elements of the instant invention are discussed in detail above except providing a weatherstripping around the periphery of the closure. Wentzel discloses an overhead door assembly with weatherstripping extending around

the periphery of the closure. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the overhead door assembly of Andresen with weatherstripping as taught by Wentzel since weatherstripping allows one to seal around and between an opening in a structure and the panel thereby sealing the building structure from the environment.

Claims 36, 38-41, 43-45, 48, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Mursinna and Keating. All of the elements of the instant invention are discussed in detail above except; 1) Providing an operator in the form of a hydraulic cylinder which opens and closes the door panel, and 2) Providing a truss externally mounted on an outside face of a bottom horizontal end of the door panel (10). Mursinna discloses a door assembly having a 3-way hydraulic cylinder, which operates the door to an open and closed position. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with an automatic door assembly as taught by Mursinna since an automatic door assembly allows one to easily operate the door to an open and closed position. As shown in Figure 2, Keating discloses an external truss (25) externally mounted on an outside face of a bottom horizontal end of the door panel (2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide extra support for a door panel bottom edge since the bottom edge of a door panel receives the greatest wear and tear on an overhead door system. With respect to claims 39 and 40, it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the door operator to move the door panel to an opened and closed

position in a time interval of 28-32 seconds since this time interval would be sufficient to allow one to move into or out of an opening and would be a matter of design choice.

Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen, Mursinna, and Keating as applied to claim 36 above, and further in view of Wentzel. All of the elements of the instant invention are discussed in detail above except providing a weatherstripping around the periphery of the closure. Wentzel discloses an overhead door assembly with weatherstripping extending around the periphery of the closure. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the overhead door assembly of Andersen with weatherstripping as taught by Wentzel since weatherstripping allows one to seal around and between an opening in a structure and the panel thereby sealing the building structure from the environment.

Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen, Mursinna, and Keating as applied to claim 36 above, and further in view of d'Haveloose. All of the elements of the instant invention are discussed in detail above except providing a ground-anchoring device. Belgium patent to D'Haveloose discloses a ground-anchoring device having a plate, which mounts bolts to support vertical members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with a ground anchoring assembly as taught by d'Haveloose since bolts anchored to the ground improves the rigidity of the vertical support members.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Sorenson discloses a truss (30) similar to that of the applicant's invention. U.S. patent to Brenner et al. disclose struts/trusses (12) similar to that of the applicant's invention.

Applicant's arguments with respect to claims 36-61 have been considered but are moot in view of the new ground(s) of rejection. It should also be noted that the applicant's amended phraseology "for maintenance of structural integrity when the door member is in the open position" fails to limit the claimed invention since the limitation fails to be positively recited.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication should be directed to Jerry Redman
at telephone number 703-308-2120.



Jerry Redman
Primary Examiner